IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 3164 of 2005

Between:

J. Jiwakar Reddy, S/o. Narsimha Reddy,
DCCB, Warangal, R/o. Hanamkonda, Warangal District.

..... PETITIONER

AND

1 The Warangal District Cooperative Central Bank Limited,

Rep. by its General Manager,
Subedari, Hanamkonda - 506 001.

2 The General Manager,

The Warangal District Cooperative Central Bank Limited,
Subedari, Hanamkonda - 506 001.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction particularly one in the nature of Writ of Certiorari calling for the records relating tot he impugned order or punishment of fine of Rs.45,000/- vide Ref.No. B9/Estt/2002-03 dated 27-12-2004 issued by the 1st respondent after the superannuation of the petitioner from service on 30-6-2003 and quash the same as totally illegal, without jurisdiction and in violation of judgment of Hon'ble Supreme Court reported in 1999 (3) SCC P.666 and consequently direct the respondents to release and pay Rs.45,000/- illegally deducted from his retirement benefits with interest and pass such other and further order or orders as may be deemed fit.

Counsel for the Petitioner :Mr.S.LAKSHMA REDDY

Counsel for the Respondents : Mr.K.NAGESWARA SREE

The Court at the stage of admission made the following :

ORDER:

This writ petition is filed by the petitioner aggrieved by the action of the respondents in issuing proceedings dated 27.12.2004 imposing a fine of Rs.45,000/-, long after the retirement of the petitioner from the services of the respondent- Bank.

According to the petitioner, he was appointed as a Clerk in the respondent-Bank on 02.06.1968, later he was promoted as a Manager and retired on 30-06-2003. The day before his retirement, i.e. on 29-06-2003, a charge sheet was issued to him alleging certain irregularities. The respondents appointed an Enquiry Officer and conducted enquiry, which resulted in passing the impugned order, imposing a fine of Rs.45,000/- on the petitioner for the alleged failure to verify the entries in the Pahani of 1991-92 and for issuing five wrong utilization certificates in L.T. loans as Manager of Madikonda Branch. He further stated that there is no specific provision under the Bye-laws or Regulations of the respondent-bank, which empowers the respondent-bank to continue the disciplinary proceedings against him after his retirement and as well as to impose punishment. Therefore, he sought to set aside the impugned proceedings on the ground of lack of jurisdiction.

The learned counsel for the petitioner relied upon a judgment of Apex Court in the case of ***"BHAGIRATHIJENA v. BOARD OF DIRECTORS, O.S.F.C."***[1] . He also relied upon an unreported judgment of Division Bench of this Court in "***THE ADILABAD DISTRICT CO.OPERATIVE CENTRAL BANK LTD., REP.BY IT'S GENERAL MANAGER AND ANOTHER v. D. HANUMANTHA RAO",*** wherein an identical issue was considered by the Division Bench of this court and relying upon the decision of the Apex Court in ***Bhagirathijena's case***(1 supra) allowed the writ petition setting aside the impugned order by confirming the order of the learned single judge.

A counter-affidavit is filed on behalf of the respondents disputing and denying the allegations. In the counter-affidavit, the respondents did not dispute as to the non-existence of any specific provision empowering the respondent-bank to continue the disciplinary proceedings, but, however sought to contend that as the petitioner participated in the enquiry, he is not entitled to question the said proceedings on the ground of lack of jurisdiction. Heard both sides and considered the material

available on record.

The issue in dispute is squarely covered by the judgment of the Division Bench of this Court, which was passed relying on the judgment of the Apex Court in the case 1st cited supra. In view of the binding decision of the Apex Court as well as the Division Bench of this court, the impugned order is liable to be set aside and the same is accordingly set aside.

At the time of hearing, it is represented that a sum of Rs.45,000/- was withheld by the respondents from out of the terminal benefits payable to the petitioner. Hence, the respondent-bank is hereby directed to pay the same within a period of four weeks from the date of receipt of a copy of this order.

The writ petition is accordingly allowed. No order as to costs.

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S. ANANDA REDDY,J.

Dated: 09-06-2005.

Rns

To

1 The General Manager,

Warangal District Cooperative Central Bank Limited,

Subedari, Hanamkonda - 506 001.

2 The General Manager,

The Warangal District Cooperative Central Bank Limited,
Subedari, Hanamkonda - 506 001.

3 Two CD copies

4 One CC to MR.LAKSHMA REDDY